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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,726	06/27/2003	Tsung-Ein Tsai	ITL.0877US (P15106)	6928

7590 02/14/2005  
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EXAMINER

WONG, ERIC K

ART UNIT PAPER NUMBER

2883

DATE MAILED: 02/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

# Office Action Summary

Application No.

10/608,726

Applicant(s)

TSAI ET AL.

Examiner

Eric Wong

Art Unit

2883

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to <sup>application</sup> communication(s) filed on 27 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-8,10,11,13,14 and 17-18 is/are rejected.
- 7) ☒ Claim(s) 3,5,9,12,13,15,16 and 19 is/are objected to:
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 6-8, 10-11, 13-14 and 17-18 are rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent Application Publication 2004/0250111 to Flusberg et al.

As to claims 1, 7, 11, 13, 14, and 17, Flusberg et al. discloses in figures 3-4, a method of detecting a characteristic of an optical device having at least two optical inputs and two optical outputs comprising:

- Coupling a light source to said device through a switch (330) which has at least one input and two outputs, the at least two outputs of said switch being coupled to the two inputs of said device (340); and
- Coupling each of the two outputs of said device to a different detector (350, 360).

As to claims 2, 8, Flusberg et al. discloses a polarization controller (120). The controller of Flusberg et al. acts as a polarization splitter and rotator.

As to claims 6, 10, and 18, the signals are split through the polarization beam splitter and sent to separate photodetectors.

### *Claim Objections*

3. Claim 4 recites the limitation "scanning the four Mueller polarization states" in lines 1-2. Claim 4 depends upon claim 1, however there is no mention of Mueller polarization states in claim 1. There is insufficient antecedent basis for this limitation in the claim.

4. Claims 3, 5, 9, 12, 13, 15, 16 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art of Flusberg et al. fails to explicitly disclose or reasonably suggest a method of detecting polarization states by coupling a light source to a 1x at least 2 optical switch through a polarization controller that generates four Mueller polarization states.

### *Inventorship*

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

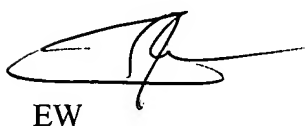
Art Unit: 2883

- a. United States Patent Number 6,788,395 to Baney et al. for a analyzer for multi-port optical networks.

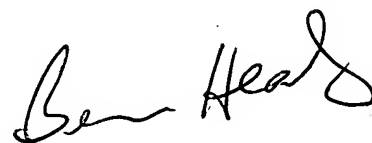
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Wong whose telephone number is 571-272-2363. The examiner can normally be reached on Monday through Friday, 830AM - 430PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Font can be reached on 571-272-2415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



EW



**Brian Healy**  
**Primary Examiner**